HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION No. 16754 of 2006

Between:

Mrs. Anees Fatima interquab

…Petitioner

AND

The State of Andhra Pradesh, represented by its Principal Secretary, Home Department, Hyderabad.

…Respondent

Counsel for the petitioner: Sri S.Sharath Kumar

Counsel for Respondent: Government Pleader for Home

Dated: 23-8-2006

ORDER:

Per G.S.Singhvi, CJ

In this petition, the petitioner has prayed for issue of a writ of mandamus declaring the action of the private respondents in making forcible entry into the premises bearing No.6-3-540/4, Panjagutta, Hyderabad by breaking open the locks with the assistance of police as highly arbitrary, illegal and violative of Articles 14, 16, 21 and 300-A of the Constitution. She has further prayed for issue of a direction to the police to restore possession of the premises to her by booking appropriate criminal cases against the private respondents.

In the affidavit filed by her, the petitioner has given details of the litigation between her and the private respondents. In para 19, she has averred that the warrant issued by IV Additional Rent Controller, Hyderabad was executed by the Bailiff on 26-7-2006 with the help of police, but on 7-8-2006 the unofficial respondents forcibly entered the premises by breaking open the locks and them manipulated issue of legal notice by one Gyanchand Gandhi suggesting that she had voluntarily handed over possession on

27-7-2006. She has then averred that even though a complaint was given to Circle Inspector of police, Panjagutta detailing various events relating to litigation between the parties and requested him to take action against some of the private respondents, the latter has not taken steps to protect her property from the criminal activities of the private respondents and restore possession to her.

We have heard Sri Sharath Kumar, learned Advocate for the petitioner and perused the record.

It is borne out from the record that just one day after filing complaint before Circle Inspector, Panjagutta, the petitioner filed the present petition. In the course of hearing, we have enquired from the learned counsel whether his client has found out the status of action taken by the police on the complaint dated
7-8-2006 and whether she has approached the higher police authorities with the grievance that Circle Inspector of Police, Panjagutta has not taken action on her complaint dated 7-8-2006, but he could not give any satisfactory reply. That part, the affidavit filed by the petitioner does not disclose that she had made any representation to the superior police officers with the grievance that her complaint is not being attended to by Circle Inspector of Police, Panjagutta. All this shows that the petitioner is seeking intervention of the High Court for adjudication of essentially a civil dispute between the parties. Therefore, we do not find any justification to entertain the prayer made by her.

We are further of the view that if the petitioner has any grievance in the matter of inaction on the part of Circle Inspector of Police, Panjagutta and the failure, if any, of the superior authorities to act on her representation, then the appropriate remedy available to her is to file complaint under Section 200 of Cr.P.C. and there is no justification to convert this Court into an ordinary Civil Court or a Court exercising powers under the Code of Criminal Procedure.

With the above observations, the writ petition is dismissed leaving the petitioner free to pursue the remedy before the appropriate Civil Court. She shall also be free to pursue her complaint dated 7-8-2006, and make representation to the superior police authorities for

taking action in the matter of alleged offences committed by the private respondents. If she is not satisfied with this course of action, then the petitioner may file complaint under Section 200 Cr.P.C.

G.S.SINGHVI, CJ

23rd August, 2006

G.V.SEETHAPATHY, J

GRR